IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 23RD NOVEMBER 2007 / 2ND AGRAHAYANA 1929

Crl.MC.No. 3483 of 2007()

CC.1349/2007 of JUDL.MAGISTRATE OF FIRST CLASS, PERUMBAVOOR

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PETITIONER: ACCUSED

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1. SREEJU.S., AGED 36 YEARS,
   S/O.K.K.SREEDHARAN, KOLLASSERY HOUSE,
   MALAYATOOR P.O., ERNAKULAM.

2. INDIRA, AGED 56 YEARS,
   W/O.K.K.SREEDHARAN, KOLLASSERY HOUSE,
   MALAYATOOR P.O., ERNAKULAM.

3. SREEJA, W/O.DAS, AGED 33 YEARS,
   KOLLASSERY HOUSE, MALAYATOOR P.O.,
   ERNAKULAM.

BY ADV. SRI.GEO PAUL
SRI.SANU MATHEW
SRI.C.R.PRAMOD

RESPONDENTS: DEFACT COMPLAINANT & COMPLAINANT

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1. JIJI, AGED 27 YEARS, D/O.KUTTAPPAN,
   KOLLASSERY HOUSE, MANJAPRA P.O.,
   MANJAPRA, ERNAKULAM.

2. STATE OF KERALA, REPRESENTED BY
   SUB INSPECTOR, KALADY POLICE STATION,
   BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY ADV. SRI.BENNY VARGHESE
PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3483 of 2007

Dated this the 23rd day of November 2007

O R D E R

The petitioners are the husband, mother-in-law and the sister-in-law of the de facto complainant who is arrayed as the first respondent in this petition. The petitioners face indictment in a prosecution under Section 498A read with 34 I.P.C. Cognizance has been taken on the basis of a final report submitted by the police after due investigation. The crime in turn was registered on the basis of a private complaint filed by the first respondent before the learned Magistrate and referred by the learned Magistrate to the police under Section 156(3) Cr.P.C. The matter is pending before the learned Magistrate. During the pendency of the proceedings, the petitioners and the first respondent have settled all their disputes and the first respondent has compounded the offences allegedly committed by the petitioners. They have settled all their disputes. The marital tie has been dissolved. Parties are residing separately. There is no pending disputes between the parties at all.

2. The averments in the Criminal Miscellaneous Case, the joint statement filed by the parties as also the affidavit filed by the first respondent do satisfy me that the parties have settled their disputes willingly and voluntarily and the first respondent has compounded the offences allegedly committed by the petitioners. If

legally permissible, I am satisfied that the composition can be accepted and premature termination of the proceedings can be brought about. But the offence under Section 498A I.P.C is not legally compoundable under Section 320 Cr.P.C. The learned counsel for the contestants, in these circumstances, rightly rely on the decision of the Supreme Court in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that the interests of justice may, at times, transcend the interests of mere law and in such circumstances, the stipulations of Section 320 Cr.P.C cannot be held to fetter the sweep, width and amplitude of the extraordinary inherent jurisdiction under Section 482 Cr.P.C. I am satisfied that this is an eminently fit case where the powers under Section 482 Cr.P.C, as explained in the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] can and ought to be invoked and proceedings initiated against the respondents by the petitioner brought to premature termination.

3. In the result, this petition is allowed. C.C No.1349/2007 pending before the Judicial First Class Magistrate Court, Perumbavoor against the petitioner under Section 498A I.P.C is hereby quashed.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007